

# REMARKS

Applicants thank the Examiner for the interview of January 18, 2005. The remarks and amendment submitted herewith substantially reflect those discussed at the interview. Reconsideration of the application is respectfully requested.

Claims 39, 40, and 43-98 are pending. Claims 1-38, 41 and 42 have been cancelled. Claims 39 and 47 have been amended. Claims 49-98 have been added.

Claim 39 was amended to recite a blend range supported, for example, on page 17, lines 16-19 and monomer constituent ranges of polymer (A) as supported, for example, on page 17, lines 1-5. Claim 39 was also amended to recite crystallizable propylene sequences supported, for example, on page 16, line 19, and polymer (B) comprising an isotactic thermoplastic polymer supported, for example, on page 13, line 10.

Claim 45 was amended to be consistent with claim 39.

Claim 47 was amended to recite a blend range supported, for example, on page 17, lines 16-19 and monomer constituent ranges of polymer (A) as supported, for example, on pages 37, Table 1. Claim 47 was also amended to recite crystallizable propylene sequences supported, for example, on page 16, line 19, and polymer (B) comprising an isotactic thermoplastic polymer supported, for example, on page 13, line 10. The recitation "having an X-ray diffraction pattern that exhibits more gamma-form crystals than a copolymer comparable in all respects except that it is prepared with a Ziegler-Natta catalyst" was deleted.

Support for the blend ranges recited in new claims 49, 50, 52, 53, 54, 55, 57, 60, 61, 63, 67, 69, 73, 75, 79, 81, 87, 89, 95, 97, and 98 may be found, for example, on page 17, lines 16-19.

Support for *crystallizable propylene sequences* recited in new claims 50, 53, 57, 63, 69, 75, 81, 89, 97, and 98 may be found, for example, on page 16, line 19.

Support for polymer (B) comprising an *isotactic* thermoplastic polymer recited in new claims 50, 53, 57, 63, 69, 75, 81, 89, 97, and 98 may be found, for example, on page 13, line 10.

Support for the numerical values directed to ethylene derived units of polymer (A) recited in new claims 53 and 57 may be found, for example, on page 17, lines 1-5.

Support for the numerical values directed to ethylene derived units of polymer (A) recited in new claim 63 may be found, for example, on page 37, Table 1, and page 44, line 9.

Support for the numerical values directed to ethylene derived units of polymer (A) recited in new claims 50, 69, 81, and 97 may be found, for example, on page 8, line 12.

Support for the numerical values directed to ethylene derived units of polymer (A) recited in new claims 64, 65, 66, 70, 71, 72, 75, 76, 77, 78, 84, 85, 86, 89, 92, 93, 94, and 98 may be found, for example, on page 37, Table 1.

Support for the ranges directed to molecular weight distribution recited in new claims 53, 69, and 75 may be found, for example, on page 20, lines 26-27.

Support for recitations directed to catalyst systems recited in new claims 57, 58, 59, 81, 82, 83, 89, 90, and 91 may be found, for example, on page 20, lines 12-27.

Support for *narrow compositional distribution* recited in new claims 97 and 98 may be found, for example, on page 15, line 10.

Thus, Applicants respectfully submit that no new matter has been added.

### **35 USC § 112**

Claims 39-48 were rejected under 35 USC § 112, first paragraph, for the reasons stated on pages 2-4 of the action. Applicants have amended the particular monomeric constituents of the polymer designated as (A) and the particular compositional limitations of claims 39 and 47 to address the rejections. Applicants respectfully request that the rejections be withdrawn.

The Action also rejected an inherent physical property under this section, i.e., an X-ray diffraction pattern that exhibits more gamma-form crystals than a copolymer comparable in all respects except that it is prepared with a Ziegler-Natta catalyst (herein "X-ray diffraction"). In particular, the Action stated, among other things, that "[i]t is not understood . . . why any property that may be measured by known testing means would necessarily need to be inferred from literature rather than from direct observation and testing." (Action at page 4, lines 6-9). Applicants submit that nowhere in the patent law are actual examples required, more less measuring properties of actual examples. Applicants also point out that under MPEP § 608.04(a) the addition of inherent characteristics is permissible. Thus, in light of Applicants' complete and adequate disclosure and the Alamo declaration of May 14, 2004, Applicants respectfully submit that one skilled in the art could readily envisage the recitation and request that the rejection be withdrawn.

#### **35 USC § 102(e)**

Claims 39-48 were rejected under 35 USC § 102(e) as being anticipated by U.S. Patent No. 5,874,505 to Saito *et al.* (herein "Saito") for the reasons stated on pages 5-6 of the Action. Saito teaches polypropylene compositions containing  $\alpha$ -olefin copolymers containing 10 to 90 % by weight, preferably 20 to 90 % by weight of an  $\alpha$ -olefin and 90 to 10 % by weight, preferably 80 to 10 % by weight of at least one of other  $\alpha$ -olefins (Col. 4, lines 24-30). Saito goes on to exemplify polypropylene compositions containing  $\alpha$ -olefin copolymers containing ethylene in the amount of 53.8 wt % (Example 1, Table 1); 46.0 wt % (Example 2, Table 1); and 54.1 wt % (Example 3) (*See also* Table 2). Applicants have amended claims 39 and 47 to recite crystallizable propylene sequences for polymer (A) and included this recitation in the new independent claims. Applicants respectfully submit that the  $\alpha$ -olefin copolymers of Saito containing such high amounts of ethylene do not teach copolymers comprising crystallizable propylene sequences as claimed and request that the rejection be withdrawn.

#### **35 USC § 102(b)**

Claims 39-44, 47 and 48 were rejected under 35 USC § 102(b) as being anticipated by U.S. Patent No. 5,840,389 to Asanuma *et al.* (herein "Asanuma") for the reasons stated on page 6 of the Action. Applicants have amended claims 39 and 47 to recite polymer (B) comprising an *isotactic* thermoplastic polymer other than polymer (A) and included this

recitation in the new independent claims. Asanuma teaches compositions of polypropylene having the substantially syndiotactic structure and copolymers of ethylene and propylene (Col. 4, lines 12-24). As such, Applicants respectfully submit that Asanuma does not anticipate the subject claims and request that the rejection be withdrawn.

### **35 USC § 102(e)**

Claims 39, 41, 43, 45, and 47 were rejected under 35 USC § 102(e) as being anticipated by U.S. Patent No. 6,372,847 to Wouters (herein "Wouters") for the reasons stated on pages 7-8 of the Action. Applicants respectfully submit that Wouters having a filing date of May 10, 2000, does not constitute prior art to this application. As such, Applicants respectfully request that the rejection be withdrawn.

### **35 USC § 102(e)**

Claims 39, 41, and 47 were rejected under 35 USC § 102(e) as being anticipated by U.S. Patent No. 6,245,856 to Kaufman *et al.* (herein "Kaufman") for the reasons stated on pages 8-9 of the Action. Kaufman teaches a requisite three component blend. (*See e.g.*, col. 2, lines 16-49). Thus, Applicants disagree with the Action's conclusion that one can extrapolate the ranges of two of the three components by the mere teachings of col. 2, lines 17-24. Rather, Kaufman teaches that the "high propylene copolymer" or the analog to polymer (A) will be employed in a range of from 2 to 15 weight percent with 3 to 7 weight percent preferred." (Col. 2, lines 45-50). Additionally, Kaufman's examples are consistent with this teaching. (*See* Tables V, VI, and VII). Applicants respectfully submit that the subject claims are outside of the teachings of Kaufman and request the rejection be withdrawn.

## **DOUBLE PATENTING**

Claims 39-48 were rejected under the judicially created doctrine of obviousness-type double patenting over U.S. Patent No. 6,372,847 for the reasons stated on page 9 of the Action. Applicants submit herewith a terminal disclaimer and respectfully request that the rejection be withdrawn.

Claims 39-42, 47, and 48 were rejected under the judicially created doctrine of obviousness-type double patenting over U.S. Patent No. 6,245,856 for the reasons stated on

pages 9-10 of the Action. Applicants submit herewith a terminal disclaimer and respectfully request that the rejection be withdrawn.

Applicants respectfully request that all rejections be withdrawn and solicit a prompt notice of allowance. Applicants invite the Examiner to telephone the undersigned attorney if there are any issues outstanding which have not been presented to the Examiner's satisfaction.

Respectfully submitted,

Date

1/25/05

  
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